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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,948	12/06/2001	Reinhard Berger	GS 0466 A US	5713
7590	12/06/2004		EXAMINER	
Alfred J. Mangels 4729 Cornell Road Cincinnati, OH 45241-2433			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER

3683

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/010,948	Applicant(s) BERGER ET AL.	
	Examiner Thomas J. Williams	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-14, 16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16 and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Acknowledgment is made in the receipt of the amendment filed November 22, 2004. The amendment has been approved for entry. The final rejection mailed May 18, 2004 is hereby withdrawn.

Claim Objections

2. Claims 3 and 4 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 3 and 4 should be canceled, the subject matter is present in claim 10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2-14, 16, 18-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,954,178 to Fischer et al.

Re-claims 3, 4 and 10, Fischer et al. discloses in figure 13 an actuator, comprising: a housing 1004 and axially extending first receptacle; a toothed rack 1010 (see also figures 17a and 21a) for linear movement along a rack longitudinal axis; a second receptacle encases a gear 1005 is adjacent the first receptacle, a portion of the second receptacle intersects a portion of the first receptacle to define a common space; an electric motor is connected with the gear 1005; an

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energy accumulator 1012 is positioned between and in contact with the toothed rack and the housing, wherein the toothed rack is moveable in a first direction (output end being 1051) that is opposite to a force imposed on the rack by the energy accumulator and is moveable in a second direction by the force of the energy accumulator, wherein the accumulator contacts the rack at a first protrusion 1013 extending outwardly from the toothed rack and the first protrusion is connected by a material locking connection, see column 29 lines 18-23.

Re-claim 14, Fischer et al. discloses in figure 13 an actuator, comprising: a housing 1004 and axially extending first receptacle; a toothed rack 1010 (see also figures 17a and 21a) for linear movement along a rack longitudinal axis; a second receptacle encases a gear 1005 is adjacent the first receptacle, a portion of the second receptacle intersects a portion of the first receptacle to define a common space, the gear is in meshing engagement with the toothed rack for linearly moving the rack within the first receptacle (see figures 13, or 17a); an electric motor is connected with the gear 1005; the gear and motor are interpreted as pre-assembled (such as motor 1602 and gear element 1604); the toothed rack is supported in bearings 1007 and 1011 carried adjacent end areas of the first receptacle and the bearings are journal bearings that are carried by the first receptacle, wherein bearings 1011 define a stop for an energy accumulator within the housing. The first protrusion element will engage the bearing support prior to full compression of the spring.

Re-claims 2 and 22, the toothed rack is cylindrical, the first receptacle is substantially hollow, see figure 13.

Re-claims 5 and 6, the protrusion is interpreted as a protruding ring formed integrally with the toothed rack.

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Re-claims 7-9, the energy accumulator contacts the housing at 1012a, which is interpreted as a second protrusion as well as a protruding ring formed integrally with the housing.

Re-claims 11 and 23, the rack is axially slidably received in the first receptacle.

Re-claims 12 and 13, the toothed rack is supported in journal bearings 1011 carried adjacent the first receptacle.

Re-claims 16, 18-20, and 24-27, see figure 17a.

Re-claims 21 and 28, the toothed rack slidably engages a major portion of a longitudinally extending inner wall surface of the first receptacle, such as at 1011.

Conclusion

5. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci, can be reached at (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

December 1, 2004

THOMAS WILLIAMS
PATENT EXAMINER

Thomas Williams

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12/1/04